

1 BARRY J. PORTMAN  
Federal Public Defender  
2 REBECCA SULLIVAN SILBERT  
Assistant Federal Public Defender  
3 555 - 12th Street, Suite 650  
Oakland, CA 94607-3627  
4 Telephone: (510) 637-3500  
Email: Rebecca\_Silbert@fd.org  
5 Counsel for Defendant OLIVER

6  
7  
8 IN THE UNITED STATES DISTRICT COURT  
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
10

11 UNITED STATES OF AMERICA,	)	No. CR 01-0186 MMC
	)	
12 Plaintiff,	)	<b>STIPULATION REGARDING</b>
13 vs.	)	<b>SENTENCE REDUCTION UNDER</b>
	)	<b>U.S.S.G. AMENDMENT 706 (AS</b>
14 HENRY OLIVER,	)	<b>AMENDED BY 711); ORDER THEREON</b>
	)	
15 Defendant.	)	
_____	)	

16  
17 **IT IS HEREBY STIPULATED AND AGREED**, by and between the parties acting  
18 through their respective counsel, that:

- 19 1. The Court has indicated that it is making its own motion for a modification of the  
20 defendant's sentence pursuant to 18 U.S.C. § 3582(c)(2).  
21 2. Defendant's original guideline calculation was as follows:  
22 Total Offense Level: 23  
23 Criminal History Category: VI  
24 Guideline Range: 92-115  
25 Mandatory Minimum: 60 months  
26

- 1 3. Defendant was sentenced to 92 months imprisonment on September 5, 2001.
- 2 4. Defendant completed the 500 hour RDAP program, and his current projected release date  
3 is September 7, 2008. His original release date, without the RDAP program, was  
4 February 17, 2009. It is the parties' understanding that the BOP will take defendant's  
5 reduction from the original release date, not from the RDAP release date.
- 6 5. Defendant is eligible for a modification of his sentence pursuant to 18 U.S.C. §  
7 3582(c), USSG § 1B1.10(c), and Amendment 706 of the United States Sentencing Commission  
8 Guidelines Manual.
- 9 6. Defendant's revised guideline calculation is as follows:  
10 Total Offense Level: 21  
11 Criminal History Category: VI  
12 Guideline Range: 77-96
- 13 7. The parties have no reason to dispute the Reduction of Sentence Report submitted to the  
14 Court by the probation office.
- 15 8. The parties stipulate that defendant's sentence should be reduced to 84 months. It is the  
16 parties understanding and intent that this reduction will result in defendant being released  
17 in approximately mid-June, 2008.
- 18 9. The parties further stipulate that all other aspects of the original judgment order including  
19 the length of term of supervised release, all conditions of supervision, fines, restitution,  
20 and special assessment remain as previously imposed.
- 21 10. Defendant stipulates that he waives and does not request a hearing in this matter pursuant  
22 to Fed. R. Crim. P. 43, 18 U.S.C § 3582(c)(2); *United States v. Booker*, 543 U.S. 220  
23 (2005) and *Kimbrough v. United States*, 128 S.Ct. 558 (2007); *United States v. Hicks*, 472  
24 F.3d 1167 (9<sup>th</sup> Cir. 2007).
- 25 11. Defendant waives his right to appeal the district court's sentence.
- 26 12. Accordingly, the parties agree and stipulate that an amended judgment may be entered by

1 the Court in accordance with this stipulation pursuant to 18 U.S.C. § 3582(c) and USSG §  
2 1B1.10(c), Amendment 706 of the *United States Sentencing Commission Guidelines*  
3 *Manual*.

4  
5 IT IS SO STIPULATED:

6 /S/

7 Date: May 16, 2008

\_\_\_\_\_  
8 Rebecca Sullivan Silbert  
Counsel for Henry Oliver

9 /S/

10 Date: May 16, 2008

\_\_\_\_\_  
11 Candace Kelly  
Assistant United States Attorney

12 I hereby attest that I have on file all holograph signatures for any signatures indicated by a  
13 “conformed” signature (/S/) within this e-filed document.

14  
15  
16 **ORDER**

17  
18 Based on the above stipulation, the Court hereby ORDERS the following:

- 19 1. The Court is making its own motion for a modification of the defendant’s sentence  
20 pursuant to 18 U.S.C. § 3582(c)(2);
- 21 2. **The original Judgment in the above-captioned case is AMENDED to reduce the**  
22 **term of imprisonment to 84 months.** All other aspects of the original judgment,  
23 including the length of term of supervised release, all conditions of supervision, fines,  
24 restitution, and special assessment remain as previously imposed.
- 25 3. Defendant’s original guideline calculation was as follows:  
26 Total Offense Level: 23

Criminal History Category: VI

Guideline Range: 92-115

Mandatory Minimum: 60 months

Sentence Imposed: 92 months

4. Defendant is eligible for a modification of his sentence pursuant to 18 U.S.C. § 3582(c), USSG § 1B1.10(c), and Amendment 706 of the United States Sentencing Commission Guidelines Manual;

5. Defendant's revised guideline calculation is as follows:

Total Offense Level: 21


Criminal History Category: VI

Guideline Range: 77-96

6. Defendant has waived his right to a hearing in this matter pursuant to Fed. R. Crim. P. 43, 18 U.S.C § 3582(c)(2); *United States v. Booker*, 543 U.S. 220 (2005) and *Kimbrough v. United States*, 128 S.Ct. 558 (2007); *United States v. Hicks*, 472 F.3d 1167 (9<sup>th</sup> Cir. 2007).

7. Defendant has waived his right to appeal the sentence imposed by this Order.

Date: May 21, 2008

  
Honorable Maxine M. Chesney  
Judge, United States District Court